

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

In Re:

CARLOS J. DIAZ CEBALLOS  
XXX-XX-4722

Debtor

**Case No: 10-04602 (ESL)**

Chapter 13

**TRUSTEE'S MOTION TO DISMISS OR MODIFY**

**TO THE HONORABLE COURT:**

**NOW COMES** José R. Carrión, Standing Chapter 13 Trustee (hereinafter, the "Trustee") through the undersigned counsel, and very respectfully states and requests:

1. On July 22, 2010, this Honorable Court entered an order confirming Debtor's plan dated May 18, 2010. (Docket No. 19).

2. On October 21, 2010, RNPM, LLC ("RNPM") filed a motion requesting an order directing the Trustee to inform the sufficiency of Debtor's confirmed plan after the filing of proof of claim number 9-1 and 10-1. (Docket No. 23).

3. On November 8, 2010, the Honorable Court entered an order directing Debtor and the Trustee to determine sufficiency of funding of confirmed plan. (Docket No. 24).

4. After due verification, the Trustee verified the proof of claims filed in the instant case and confirmed that Debtor plan base is sufficient for the payment of RNPM's proof of claims number 9-1 and 10-1. The base of the confirmed plan is

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\$24,000.00, which pays the 100% of all the allowed secured claims and approximately 28% to the unsecured creditors' claims.

5. Notwithstanding, the Trustee became aware that Debtor does not include in his plan a specific provisions as to the payment of both proof of claims. Pursuant to 11 U.S.C. § 1325(a)(5) a plan must provide as to each allowed secured claim.

6. Therefore, the Trustee respectfully request that this Honorable Court entered an order directing Debtor to amend his plan dated July 22, 2010, to include a provision as to the payments of secured creditor, RNPM's proof of claims number 9-1 and 10-1 within 30 days subject to the dismissal of the case for cause pursuant to 11 U.S.C. §1307(c) for the reasons herein set forth.

**WHEREFORE**, the Trustee respectfully requests this Honorable Court to take notice of the aforesaid, and that this motion be granted and that an order dismissing this case be entered for cause pursuant to 11 U.S.C. §1307(c) for the reasons herein set forth.

**30 DAYS NOTICE:** In accordance with local *General Order No. 05-09*, the Debtor(s), all Creditors and Parties in Interest in this case, are hereby notified that unless an opposition to this Motion is submitted in writing within 30 days from the date of this notice, the Court may grant this motion, the case may be dismissed or converted the case to a Chapter 7, without further notice or hearing.

**CERTIFICATE OF SERVICE:** The Chapter 13 Trustee certifies that today, this document has been filed using the Court's CM/ECF System, which will provide electronic notice of the same to all appearing parties that are CM/ECF participants and that copy of this motion has been served by regular First Class Mail

on this same date to: the DEBTOR(s), their counsel and all those parties in interest who have filed a notice of appearance if not an CM/ECF register user.

In San Juan, Puerto Rico, this **23rd** day of December, 2010.

**/S/ Mayra M. Argüelles-Álvarez**

Staff Attorney  
USDC-PR No. 228304

JOSE R. CARRIÓN-MORALES  
CHAPTER 13 TRUSTEE  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO

IN RE:  
CARLOS JAVIER DIAZ CEBALLOS  
DEBTOR (S)

CASE NO. 10-04602-ESL  
CHAPTER 13

AFFIDAVIT FOR DEFAULT JUDGEMENT  
PURSUANT TO SECTION 201(b) (4)  
OF THE SERVICEMEMBERS CIVIL RELIEF ACT OF 2003

I, crosario, clerk for the Chapter 13 & 12 Trustee's Office, declare under penalty of perjury, the following:

That according to the enclosed certification, provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the Army, Navy or Air Forces of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

To certify the above statement I sign this affidavit,

In San Juan, Puerto Rico, December 23, 2010.

Carmen L. Roxas

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail to the parties listed below:

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RADIO SHACK  
ATTN. CENTRALIZED BANKRUPTCY  
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PO BOX 194499  
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SEARS  
701 EAST 60TH ST N  
SIOUXFALLS, SD 57117

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ZALES  
PROCESSING CENTER  
DES MOINES, IA 50364-0001

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DATED: December 23, 2010

crosario

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OFFICE OF THE CHAPTER 13 TRUSTEE

Department of Defense Manpower Data Center

Dec-23-2010 03:19:18



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
DIAZ CEBALLOS	CARLOS JAVIER		Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

#### ***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

#### ***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

**WARNING:** This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:9U6KOU74IA